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Counsel to Alfred H. Siegel, as Trustee of the Circuit City Stores, Inc. Liquidating Trust

**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE EASTERN DISTRICT OF VIRGINIA
 RICHMOND DIVISION**

In re:) Case No. 08-35653 (KRH)
)
CIRCUIT CITY STORES, INC., <i>et al.</i> , ¹) Chapter 11
)
Debtors.) (Jointly Administered)
)
)
ALFRED H. SIEGEL, TRUSTEE OF THE)
CIRCUIT CITY STORES, INC. LIQUIDATING)
TRUST)
Plaintiff) Adversary Number 19-03091
)
v.)
)
UNITED STATES TRUSTEE PROGRAM,)
CLIFFORD D. WHITE, III, DIRECTOR,)
JOHN P. FITZGERALD, III, ACTING UNITED)
STATES TRUSTEE FOR REGION 4,)
Defendants)
)

ORDER

¹ The Debtors in these chapter 11 cases (collectively, the “Case”), along with the last four digits of their respective federal tax identifications numbers, are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Purchasing Company, LLC (5170), CC Aviation, LLC (0841), CC Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc. (6796), Sky Venture Corp. (0311), Prahs, Inc. (n/a), XSStuff, LLC (9263), Mayland MN, LLC (6116), Courchevel, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512).

Alfred H. Siegel, as Trustee (the “**Trustee**”) of the Circuit City Stores, Inc. Liquidating Trust (the “**Trust**”) created under the *Modified Second Amended Joint Plan of Liquidation of Circuit City Stores, Inc. and its Affiliated Debtors and Debtors in Possession and its Official Committee of Unsecured Creditors Holding General Unsecured Claims, In re Circuit City Stores, Inc.*, Case No. 08-35653 (Bankr. E.D. Va. Aug. 9, 2010), ECF No. 8252, Exhibit A, solely in his capacity as Trustee, and not in any individual or other capacity, and John P. Fitzgerald, Acting United States Trustee for Region 4 on behalf of the himself and all named Defendants herein (the “**Defendants**” and together with the Trustee, the “**Parties**”), by their respective counsel, hereby stipulate as follows:

WHEREAS, on October 9, 2019, the Trustee commenced this adversary proceeding by filing the Complaint;²

WHEREAS, the Court scheduled a pre-trial conference on December 11, 2019 at 1:00 PM;

WHEREAS, on November 14, 2019, the Defendants filed a *Motion to Dismiss Complaint, or in the Alternative, for a Stay, and Memorandum in Support* (“**Motion to Dismiss**”);

IT IS HEREBY STIPULATED, ORDERED ADJUDGED AND DECREED THAT:

1. The Motion to Dismiss is hereby withdrawn, without prejudice.
2. Except as otherwise ordered herein, all proceedings shall be suspended and stayed in this adversary, pending a final decision in *Fitzgerald v. Siegel*, Case No. 19-2240 and *Siegel v. Fitzgerald*, Case No. 19-2255, currently pending in the Fourth Circuit Court of Appeals, and any further appeals, if any. A “final decision” means that no further request for review (whether via

²Capitalized terms not otherwise defined have the meanings given them in the Complaint.

reconsideration, appeal or certiorari) has been sought and the date by which any such request for further review must be sought has passed.

3. Within 10 days of the final decision in *Fitzgerald v. Siegel*, Case No. 19-2240 and *Siegel v. Fitzgerald*, Case No. 19-2255, and any further appeals, if any, the Parties shall jointly submit a status report to the Court, alerting the Court to the decision and stating whether they believe further proceedings on the Complaint will be necessary. If the Trust does not voluntarily dismiss the Complaint or seek to amend the Complaint, the Defendants shall have 35 days from the date the final appellate order is entered to move to dismiss or otherwise respond to the Complaint.

4. The Pretrial conference scheduled for December 11, 2019 at 1:00 PM shall be postponed until February 27, 2020, at 1:00 PM for status purposes.

5. The Trustee shall serve a copy of this Order on the Defendants on or before five (5) business days from the entry of this Order.

6. This Court shall retain jurisdiction to hear and determine all matters arising from or relating to this Order.

Dec 4 2019

Entered:
Richmond, Virginia

/s/ Kevin R Huennekens

KEVIN R. HUENNEKENS
UNITED STATES BANKRUPTCY JUDGE

Entered on Docket: Dec 6 2019

WE ASK FOR THIS:

**ALFRED H. SIEGEL, AS TRUSTEE OF THE CIRCUIT CITY STORES, INC.
LIQUIDATING TRUST**

/s/ Lynn L. Tavenner

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Counsel to Alfred H. Siegel, as Trustee of the Circuit City Stores, Inc. Liquidating Trust

JOHN P. FITZGERALD, III ACTING UNITED STATES TRUSTEE, REGION FOUR

/s/ Robert B. Van Arsdale (Permission to affix signature received via email dated 11/29/19)

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John P. Fitzgerald, III Acting United States Trustee, Region Four

CERTIFICATION

I hereby certify that the foregoing proposed Stipulation and Order has been either served on or endorsed by all necessary parties.

/s/ Lynn L. Tavenner
Counsel

Service List:

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